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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,944	01/16/2004	Chris Angeletti	P00599-US-0 (16169.0075)	8233
22446	7590	07/27/2006	EXAMINER BUI, LUAN KIM	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/759,944

Applicant(s)

ANGELETTI ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.  
4a) Of the above claim(s) 44-46, 50-54 is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-12 is/are allowed.  
6) ☒ Claim(s) 13-43, 47-49 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/16/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

Applicant's election with traverse of Group I 6/5/2006 is acknowledged. The traversal is noted in the remarks. This is not found persuasive because the inventions are independent and distinct from each other and because examination of each invention will necessitate disparate searches which would clearly pose a burden as clearly shown by the examiner in the requirement. Claims 44-46 and 50-54 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to a nonelected invention.

The requirement is still deemed proper and is therefore made **FINAL**.

An unintended error had been made by the Examiner in the requirement that Group IV should include claims 50-52.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 39 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 39, the phrase "the first lower resilient stop" lacks proper antecedent basis. In claim 49, the phrase "a cross bar, connectable to the first and second post at a plurality of locations, wherein the plurality of stops are pivotably mounted to the cross bar" lacks antecedent basis because the specification does not provide support for such phrase since the cross bar 124 only provide for one stop 610 and the cross bar 134, 136 does not connect to the first and second post at a plurality of locations.

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In claim 1, line 2, "first second third" should be replaced with --first, second, third--.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Lacasse et al. (2003/0164318; hereinafter Lacasse'318). Lacasse'318 discloses a pallet (10, 12) for shipping vehicle windshields of various sizes (paragraph 0005) comprising a base having four bars (102, 104, 106, 108) arranged to form the sides of a substantially rectangular configuration having a first, a second, a third and a fourth corner, a first, a second, a third and a fourth rigid member (52, 54, 60, 62) joined to and extending upwardly from the first, second, third and fourth corners respectively to define a first area of a protective envelope and a means (56, 58, 64, 66) for adapting the pallet to secure a variety of differently sized windshields within the protective envelope based to define a second area of the protective envelope.

5. Claims 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Pater et al. (4,010,849; hereinafter Pater'849). Pater'849 discloses a pallet for shipping windshields comprising a base (68), means (56, 91) for mounting a plurality of stops to the base and a

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plurality of stops (38, 80) pivotally mounted above the base and having a pivot axis with each of the plurality of stops having an effective radius (along the threaded shaft 48 or plate member 88) and each effective radius different from the effective radius of another of the plurality of stops.

6. Claims 13, 14 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomaswick et al. (4,512,473; hereinafter Thomaswick'473). Thomaswick'473 discloses a pallet comprising a base having four bars (39) to define a first, a second, a third and a fourth corner, a first, second, third and fourth rigid member (19) joined to and extending upwardly from the first, second, third and fourth corners respectively to define a first area of a protective envelope and a means comprises a first, a second, a third and a fourth extension (17, 18) engageable with the first, second, third and fourth rigid member respectively to define a second area of the protective envelope.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 15-27, 29-43 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomaswick et al. (4,512,473; hereinafter Thomaswick'473) in view of Pater et al.

(4,010,849; hereinafter Pater'849) and Peterson (5,603,419). Thomaswick'473 discloses the

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pallet as above having all the limitations of the claims except for the first, second, third and fourth members being at least partially foldable toward the plane of the base. Pater'849 shows a pallet comprising a rigid member (152) at least partially foldable toward the plane of a base (Figures 4 and 9). Peterson teaches a support (10) comprising rigid members (20, 22) at least partially foldable toward the plane of a base (Figures 1-2). It would have been obvious to one having ordinary skill in the art in view of Pater'849 and Peterson to modify the pallet of Thomaswick'473 so the first, second, third and fourth members are at least partially foldable toward the plane of the base to reduce space during storage.

As to claims 21-23, Pater'849 shows a plurality of stops (80) attached to the cross base (30, 64).

#### *Allowable Subject Matter*

9. Claims 1-12 are allowed.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

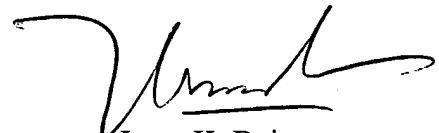
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
July 23, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728